Opening Statement of the

Honorable Maxine Waters, D-35th CA

Chairwoman, Subcommittee on Housing and Community Opportunity

Hearing on "Legislative Proposals on Reforming Mortgage Practices"

Thursday, October 24, 2007

10 a.m.

Room 2128 Rayburn House Office Building

Thank you Chairman Frank. I want to salute your efforts to address mortgage reform and predatory lending. It would perhaps have politically popular to introduce legislation soon after the issues in the mortgage market began to surface. But shooting from the hip in this complex environment could easily have meant shooting our economy in the foot, without doing much good for people in need. Instead, you worked closely with Representatives Watt and Miller to gather input from the full range of stakeholders before introducing H.R. 3915. Indeed, I am pleased to co-sponsor the Mortgage Reform and Anti-Predatory Lending Act of 2007 in significant part because I know how painstaking and consultative the process was that generated it.

The subprime crisis is large, complex, and far from over. Its impact has been felt nationwide, but not equally distributed across the country. Simply put, California joins the Rust and Sun Belts at the center of the foreclosure wave. Foreclosure rates in California rank third in the country and are 99% higher than the same time last year. Meanwhile, as many as 1.5 million sub prime adjustable rate mortgages carry the potential for serious financial distress by 2009.

H.R. 3915 is designed to make sure this doesn't happen again. In that sense, we are here today to talk about <u>prospective</u> actions, not solutions to the current crisis. But the two are clearly linked. I am concerned that as little as 1% of the atrisk subprime loans have been modified by servicers to date, despite highly-publicized initiatives. Congress is limited in its ability to require the mortgage industry to clean up the last mess they made, in a largely unregulated environment. But the industry's track record should inform our assessment of any claims they make, today and going forward, to having the ability to prevent and address <u>future</u> messes, absent significant federal regulation.

This said, a delicate balance must be maintained between protecting borrowers on one hand, and encouraging innovation in mortgage lending and sustaining the critical secondary mortgage market on the other. H.R. 3915 strikes this balance. Perhaps the most important steps the bill takes are to impose a federal duty of care on mortgage originators and minimum standards on all

mortgages. It is clear to me that we need to prevent the now widespread practice of getting people into loans they can't afford. To that end, it's reasonable to require licensed originators to present consumers with mortgage loan products appropriate to their circumstances. Underpinning this must be some minimum standard regarding the borrower's ability to repay, which H.R. 3915 establishes. I believe this is a sound standard to impose universally in the mortgage market. Indeed, regulated entities have long faced similar standards from their regulators.

To prevent mass exodus from the mortgage markets, the bill limits damages to three times the originator's fee plus the consumer's costs. Similarly, although the bill for the first time creates securitizer liability, such liability is limited to recission of the loan and consumer costs. The bill also creates a "safe harbor" for prime loans and for other loans that meet reasonable documentation and underwriting standards. Is this the perfect balance between rights and remedies? I don't know that any of us can know for sure at this moment, but I look forward to hearing from the witnesses today on that point.

In sum, this bill is about incentives – balancing incentives to innovate against incentives to go "over the line" in marketing inappropriate products to borrowers and then whisking the risk off to the four corners of the global economy. I am particularly pleased that H.R. 3915 removes the most destructive of such incentives, severing the link between the compensation of the originator—whether

a mortgage broker or other entity—and the terms of the loan. Minority borrowers have been disproportionately steered to costly loans, in part because the fees such loans generate for originators are higher than more appropriate products. H.R. 3915 correctly prohibits this practice outright.

Thank you. I yield back.